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Chapter No. 448

10/SS26/R956SG

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# ***SENATE BILL NO. 2652***

Originated in Senate *Hermi D. Hughes* Secretary

SENATE BILL NO. 2652

AN ACT TO AMEND SECTION 75-15-1, MISSISSIPPI CODE OF 1972, TO CHANGE THE NAME OF THE CHAPTER FROM THE "SALE OF CHECKS LAW" TO THE "MONEY TRANSMITTERS ACT"; TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO AMEND SECTION 75-15-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 75-15-7, MISSISSIPPI CODE OF 1972, TO REVISE THE EXEMPTIONS PROVIDED IN THE ACT; TO AMEND SECTION 75-15-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT APPLICANTS FOR LICENSURE SHALL NOT HAVE BEEN CONVICTED OF A FELONY OR CERTAIN MISDEMEANORS; TO AMEND SECTION 75-15-11, MISSISSIPPI CODE OF 1972, TO REVISE THE SURETY BOND REQUIREMENT FOR LICENSEES; TO AMEND SECTIONS 75-15-13, 75-15-15 AND 75-15-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 75-15-19, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN LICENSEES TO SUBMIT REPORTS OF OUTSTANDING MONEY TRANSMISSIONS ON A MONTHLY BASIS AND TO REQUIRE LICENSEES TO MAINTAIN CERTAIN RECORDS; TO AMEND SECTION 75-15-23, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 75-15-25, MISSISSIPPI CODE OF 1972, TO REVISE THE LIMITATION ON THE TOTAL AMOUNT IN OUTSTANDING MONEY TRANSMISSIONS OR CHECKS OF LICENSEES; TO AMEND SECTION 75-15-27, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A LICENSE SHALL BE AUTOMATICALLY AND FINALLY REVOKED UPON FAILURE BY LICENSEE TO FILE WHEN DUE CERTAIN INFORMATION REQUIRED BY LAW; TO AMEND SECTION 75-15-29, MISSISSIPPI CODE OF 1972, TO REVISE THE MAXIMUM AMOUNT BY WHICH THE COMMISSIONER MAY INCREASE THE SURETY BOND OR DEPOSIT REQUIRED BY LICENSEES; TO AMEND SECTION 75-15-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO CREATE A NEW SECTION TO REQUIRE CERTAIN LICENSEES TO POSSESS PERMISSIBLE INVESTMENTS HAVING AN AGGREGATE MARKET VALUE OF NOT LESS THAN THE AGGREGATE AMOUNT OF OUTSTANDING CHECKS; TO CREATE A NEW SECTION TO REQUIRE EACH LICENSEE TO COMPLY WITH STATE AND FEDERAL MONEY LAUNDERING LAWS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 75-15-1, Mississippi Code of 1972, is amended as follows:

75-15-1. This chapter may be cited as the "Mississippi Money Transmitters Act."

**SECTION 2.** Section 75-15-3, Mississippi Code of 1972, is amended as follows:

75-15-3. For the purposes of this chapter:

(a) "Check" means any check, draft, money order, personal money order or other instrument, including but not limited to stored value cards, for the transmission or payment of money. The format of a check may be either paper, electronic, plastic or any combination thereof.

(b) "Commissioner" \* \* \* means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(c) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer signs the check.

(d) "Executive officer" means the licensee's president, chairman of the executive committee, senior officer responsible for the licensee's business, chief financial officer and any other person who performs similar functions.

(e) "Licensee" means a person duly licensed by the commissioner under this chapter.

(f) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(g) "Money transmission" means to engage in the business of the sale or issuance of checks or of receiving money or monetary value for transmission to a location within or outside the United States by any and all means, including but not limited to wire, facsimile or electronic transfer.

(h) "Outstanding check" means any check issued or sold in Mississippi by or for the licensee that has been reported as sold but not yet paid by or for the licensee.

(i) "Person" means any individual, partnership, association, joint-stock association, trust or corporation, but does not include the United States government or the government of this state.



(j) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether the instrument is signed by the seller or by the purchaser or remitter or some other person.

(k) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(l) "Sell" means to sell, to issue or to deliver a check.

(m) "Stored value" means monetary value that is evidenced by an electronic record.

**SECTION 3.** Section 75-15-5, Mississippi Code of 1972, is amended as follows:

75-15-5. No person, except those specified in Section 75-15-7, shall engage in the business of money transmission, as a service or for a fee or other consideration, without having first obtained a license under this chapter.

**SECTION 4.** Section 75-15-7, Mississippi Code of 1972, is amended as follows:

75-15-7. Nothing in this chapter shall apply to the sale or issuance or delivering of checks by:

(a) Any financial institution whose deposits are insured by any agency of the United States government or any trust company authorized to do business in this state;

(b) The government of the United States or any department or agent thereof;

(c) The State of Mississippi or any municipal corporation, county or other political subdivision of this state;

(d) Agents of a licensee, as provided for in Section 75-15-17, provided that this exemption shall apply only to the agent's acts on behalf of the licensee and this exemption shall not exempt the agent from the provisions of this chapter where he conducts money transmissions for his own account;

(e) Attorneys-at-law, as to checks issued in the regular course of the practice of law; \* \* \*

(f) Persons not carrying on the trade or business of money transmission, this exemption is intended to include persons who conduct money transmissions only as an incidental act to another trade or business regularly carried on by them and persons who only occasionally and infrequently conduct money transmissions for another person; or

(g) The Nationwide Mortgage Licensing System and Registry for mortgage brokers, mortgage lenders and mortgage loan originators.

**SECTION 5.** Section 75-15-9, Mississippi Code of 1972, is amended as follows:

75-15-9. Each application for a license to engage in the business of money transmission shall be made in writing and under oath to the commissioner in such form as he may prescribe. The application shall state the full name and business address of:

(a) The proprietor, if the applicant is an individual;  
(b) Every member, if the applicant is a partnership or association;

(c) The corporation and each executive officer and director thereof, if the applicant is a corporation;

(d) Every trustee and officer if the applicant is a trust;

(e) The applicant shall have a net worth of at least Twenty-five Thousand Dollars (\$25,000.00) plus Fifteen Thousand Dollars (\$15,000.00) for each location in excess of one (1) at which the applicant proposes to conduct money transmissions in

this state, computed according to generally accepted accounting principles, but in no event shall the net worth be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00);

(f) The financial responsibility, financial condition, \* \* \* business experience and character and general fitness of the applicant shall be such as reasonably to warrant the belief that applicant's business will be conducted honestly, carefully and efficiently;

(g) Each application for a license shall be accompanied by an investigation fee of Fifty Dollars (\$50.00) and license fee in the amount required by Section 75-15-15. \* \* \* All \* \* \* fees collected by the commissioner under the provisions of this chapter shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance;

(h) An applicant shall not have been convicted of a felony in any jurisdiction or a misdemeanor of fraud, theft, forgery, bribery, embezzlement, or making a fraudulent or false statement in any jurisdiction.

**SECTION 6.** Section 75-15-11, Mississippi Code of 1972, is amended as follows:

75-15-11. Each application for a license shall be accompanied by:

(a) Certified financial statements, reasonably satisfactory to the commissioner, showing that the applicant has a net worth of at least Twenty-five Thousand Dollars (\$25,000.00) plus Fifteen Thousand Dollars (\$15,000.00) for each location in excess of one (1) at which the applicant proposes to conduct money transmissions in this state, computed according to generally accepted accounting principles, but in no event shall the net worth be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00).

(b) A surety bond issued by a bonding company or insurance company authorized to do business in this state, in the



principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in an amount equal to outstanding money transmissions in Mississippi, whichever is greater, \* \* \* but in no event shall the bond be required to be in excess of Five Hundred Thousand Dollars (\$500,000.00). However, the commissioner may increase the required amount of the bond upon the basis of the impaired financial condition of a licensee as evidenced by a reduction in net worth, financial losses or other relevant criteria. \* \* \* The bond shall be in form satisfactory to the commissioner and shall run to the state for the use and benefit of the Department of Banking and Consumer Finance and any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with money transmissions in Mississippi. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The surety on the bond shall have the right to cancel the bond upon giving sixty (60) days' notice in writing to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. Any claimants against the applicant or his agents may themselves bring suit directly on the bond, or the Attorney General may bring suit thereon in behalf of those claimants, either in one (1) action or successive actions.

(c) In lieu of the corporate surety bond, the applicant may deposit with the State Treasurer bonds or other obligations of the United States or guaranteed by the United States or bonds or other obligations of this state or of any municipal corporation, county, or other political subdivision or agency of this state, or certificates of deposit of national or state banks doing business in Mississippi, having an aggregate market value at least equal to that of the corporate surety bond otherwise required. Those bonds or obligations or certificates of deposit shall be deposited with

the State Treasurer to secure the same obligations as would a corporate surety bond, but the depositor shall be entitled to receive all interest and dividends thereon and shall have the right to substitute other bonds or obligations or certificates of deposit for those deposited, with the approval of the commissioner, and shall be required so to do on order of the commissioner made for good cause shown. The State Treasurer shall provide for custody of the bonds or obligations or certificates of deposits by a qualified trust company or bank located in the State of Mississippi or by any Federal Reserve Bank. The compensation, if any, of the custodian for acting as such under this section shall be paid by the depositing licensee.

(d) Proof of registration as a money service business per 31 CFR Section 103.41, if applicable.

(e) A set of fingerprints from any local law enforcement agency for each owner of a sole proprietorship, partners in a partnership or principal owners of a limited liability company that own at least ten percent (10%) of the voting shares of the company, shareholders owning ten percent (10%) or more of the outstanding shares of the corporation, except publically traded corporations and their subsidiaries, and any other executive officer with significant oversight duties of the business. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety for a state criminal history records check, and the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history records check. The department shall not issue a license if it finds that the applicant, or any person who is an owner, partner, director or executive officer of the applicant, has been convicted of: (i) a felony in any jurisdiction; or (ii) a crime that, if committed within the state, would constitute a felony under the laws of this state; or (iii) a misdemeanor of fraud, theft,



forgery, bribery, embezzlement or making a fraudulent or false statement in any jurisdiction. For the purposes of this chapter, a person shall be deemed to have been convicted of a crime if the person has pleaded guilty to a crime before a court or federal magistrate, or plea of nolo contendere, or has been found guilty of a crime by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension of a sentence, unless the person convicted of the crime has received a pardon from the President of the United States or the Governor or other pardoning authority in the jurisdiction where the conviction was obtained.

**SECTION 7.** Section 75-15-13, Mississippi Code of 1972, is amended as follows:

75-15-13. Upon the filing of the application, the payment of the investigation fee and license fee, and the approval by the commissioner of the bond or securities delivered under Section 75-15-11 \* \* \*, the commissioner shall investigate the financial responsibility, financial and business experience, character and general fitness of the applicant, and, if he deems it advisable, of its officers and directors, and if he finds that the applicant (and its officers and directors, if investigated) has the requisite qualifications to meet the requirements of this chapter and that its (or their) qualifications are such as to warrant the belief that the applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently and in a manner commanding the confidence and trust of the community, he shall issue to the applicant a license to engage in the business of money transmission subject to the provisions of this chapter.

**SECTION 8.** Section 75-15-15, Mississippi Code of 1972, is amended as follows:

75-15-15. Each licensee shall pay to the commissioner with his initial application a license fee of Seven Hundred Fifty Dollars (\$750.00), and annually thereafter on or before April 1 of

each year, a renewal fee of Four Hundred Dollars (\$400.00), plus Fifty Dollars (\$50.00) for each location in excess of one (1) in Mississippi through which the licensee plans to conduct money transmissions during the license year for which the fee is paid, provided that in no event shall the annual renewal fee exceed One Thousand Dollars (\$1,000.00).

**SECTION 9.** Section 75-15-17, Mississippi Code of 1972, is amended as follows:

75-15-17. A licensee may conduct his business at one or more locations within this state and through or by means of such agents as the licensee may from time to time designate or appoint. No license under this chapter shall be required of any agent of a licensee, provided that this exemption shall apply only to the agent's acts on behalf of the licensee and this exemption shall not exempt the agent from the provisions of this chapter where he conducts money transmissions for his own account. The licensee shall require each of his appointed agents to display prominently on the agent's premises, where same may be readily viewed by prospective clients or purchasers, a printed certificate signed by an authorized official of licensee setting forth in bold letters the names of the licensee and agent and stating that the licensee holds a valid and existing license issued by the commissioner under this chapter and that agent is a duly authorized agent of licensee. Neither a licensee nor an agent may appoint a subagent to conduct money transmissions.

**SECTION 10.** Section 75-15-19, Mississippi Code of 1972, is amended as follows:

75-15-19. (1) (a) Each licensee shall file with the commissioner within fifteen (15) days of the last business day of each month a report of the total amount of outstanding money transmissions in Mississippi. The principal sum of the surety bond or deposit required in Section 75-15-11 shall be adjusted, if appropriate, to reflect any changes in outstanding money



transmissions. Licensees who maintain a surety bond in the principal sum of at least Five Hundred Thousand Dollars (\$500,000.00) or a securities deposit having an aggregate market value of at least equal to Five Hundred Thousand Dollars (\$500,000.00) shall be required to report the total amount of outstanding money transmissions in Mississippi on a quarterly basis.

\* \* \*

(b) Each licensee shall file an annual financial statement with the commissioner, audited by an independent \* \* \* certified public accountant or an independent registered accountant, within five (5) months after the close of the licensee's fiscal year. The financial statement shall include a balance sheet, a profit and loss statement, and a statement of retained earnings of the licensee and the licensee's agents resulting from the business of money transmission.

(2) The commissioner may conduct or cause to be conducted an annual examination or audit of the books and records of any licensee at any time or times he deems proper, the cost of the examination or audit to be borne by the licensee. The refusal of access to the books and records shall be cause for the revocation of its license. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each licensed office \* \* \*, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. \* \* \*

(3) Each licensee shall maintain the following books and records for a period of five (5) years and the books and records shall be available to the commissioner for inspection:

(a) A record of each money transmission sold;



(b) A general ledger, posted at least monthly, containing all assets, liabilities, capital, income and expense accounts;

(c) Bank statements and bank reconciliation records;

(d) Records of outstanding money transmissions;

(e) Records of each money transmission paid within the five-year period;

(f) A list of the names and addresses of all authorized agents; and

(g) Any other records the commissioner may reasonably require by rule or regulation.

The records required under this section may be maintained in photographic, electronic or other similar form.

(4) Each licensee must maintain a written Bank Secrecy Act/Anti-Money Laundering Program that complies with 31 CFR Section 103.125, if applicable.

(5) The commissioner may conduct a joint examination with representatives of other departments or agencies of another state or with the federal government. The commissioner may accept an examination report of another state or of the federal government or a report prepared by a certified public accountant instead of conducting an examination. A joint examination or an acceptance of an examination report does not preclude the commissioner from conducting his own examination. The report of a joint examination or an examination report accepted by the commissioner under this section is an official report of the commissioner for all purposes.

(6) The department may adopt the necessary administrative regulations, not inconsistent with state law, for the enforcement of this chapter.

**SECTION 11.** Section 75-15-23, Mississippi Code of 1972, is amended as follows:

75-15-23. Each licensee shall be liable for the payment of all money transmissions and for all checks that the licensee sells, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the negotiable instrument laws of this state, and shall be responsible only for those acts of the agent done on behalf of the licensee. Every check sold by a licensee directly or through an agent shall bear the name of the licensee clearly imprinted thereon. During the period of time that a person is an appointed agent for a licensee, the agent shall not directly or indirectly conduct his own money transmission business \* \* \* and the agent shall not be, continue to be, or become an officer, director, stockholder, employee, or agent of any other licensee under this chapter. When a person ceases to be an agent of a licensee, he shall immediately cease displaying his agent's appointment certificate, as provided under Section 75-15-17 of this chapter and shall immediately surrender same to the licensee.

**SECTION 12.** Section 75-15-25, Mississippi Code of 1972, is amended as follows:

75-15-25. Whenever the bond or securities deposit required under Section 75-15-11 \* \* \* is less than Five Hundred Thousand Dollars (\$500,000.00), the licensee may not at any time have a total amount in outstanding money transmissions or checks in Mississippi, in excess of the bond or securities deposit required of him under Section 75-15-11 \* \* \*, and the licensee shall, in accordance with rules and regulations promulgated by the commissioner under this chapter, submit a written report to the commissioner on the last business day of each month regarding his money transmissions outstanding in Mississippi, whether issued by himself or through agents, provided that this limitation shall be the principal sum of the bond or the market value of the securities deposit required of the licensee under Section 75-15-11 \* \* \*, and the sum of this limitation shall not be



increased by any bond or securities deposit increase required by the commissioner under Section 75-15-29 \* \* \* or by deposit of any revocation order, suspension bond or securities deposit under Section 75-15-27 \* \* \*.

**SECTION 13.** Section 75-15-27, Mississippi Code of 1972, is amended as follows:

75-15-27. Except where a license is automatically revoked without any act of the commissioner as specially provided in this chapter, no license shall be denied or revoked except on ten (10) days' notice (the first day of the ten-day period to be the date stated on the notice, which shall be the day it is mailed) to the applicant or licensee by the commissioner, sent by letter by United States registered mail, return receipt requested, to the applicant's or licensee's business address set forth in the application. Upon receipt of the notice, as stated in the registered mail receipt, the applicant or licensee may, within five (5) days thereafter (which five-day period may be wholly or partially outside of the ten-day period) make written demand for a hearing by the commissioner, which demand, in the case of a revocation notice, must be accompanied by an additional surety bond or securities deposit, as hereafter provided, the principal sum or the market value thereof to be specified by the commissioner in the revocation notice. The revocation notice shall not become final during the period of time in which the licensee may demand such hearing nor if licensee demands a hearing, until the matter has been finally determined by the commissioner or by the courts, provided as to any revocation order, but not a denial order, that the licensee posts together with his written demand for hearing an additional corporate surety bond, written by the same surety that wrote the bond under subsection (b) of Section 75-15-11 \* \* \*, or an additional securities deposit in addition to the securities deposit theretofore made by the licensee under subsection (c) of Section



75-15-11 \* \* \* which additional surety bond or securities deposit shall be in a principal amount or of a market value deemed adequate by the commissioner as specified in the revocation order but not exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00), provided \* \* \* that if the licensee originally deposited with his application under Section 75-15-11 \* \* \* a corporate surety bond, the additional deposit provided in this section must be another corporate surety bond or an increase of the first one and may not be a deposit of securities, or if the licensee originally deposited securities, the additional deposit shall also be of securities and not a corporate surety bond. The bond or securities deposit shall secure the same obligations as does the corporate surety bond or securities deposit required by Section 75-15-11, but shall be in addition to the bond or securities deposit required thereby. Upon receipt of the written demand, the commissioner shall thereafter, with reasonable promptness, hear and determine the matter as provided by law. If the applicant or licensee deems himself aggrieved by the determination or order of the commissioner, he may within fifteen (15) days after the determination or order, have the determination or order reviewed by an appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi, by filing a petition setting out the specific order or action or part thereof by which the person deems himself aggrieved. All those petitions shall be given preferred settings and shall be heard by the court as speedily as possible. Such an appeal shall be perfected upon the posting of a bond for the costs of the appeal accompanied by the \* \* \* petition. Any party to the appeal may appeal to the Supreme Court of Mississippi from the decree or order of the chancery court, within thirty (30) days from the rendition of the decree or order, in the manner provided by law for appeals to the Supreme Court of Mississippi from chancery courts.

Final denial or revocation of the license, whether automatic or by final determination of the commissioner or the courts, shall cancel as of the date of final revocation all bonds or securities deposits theretofore deposited by the applicant or licensee under any provision of this chapter, provided that the licensee (and his corporate surety, if any) shall not be relieved of any accrued liabilities, and provided further, where the licensee deposited securities, that there shall not be returned to the licensee any of the deposited securities until the commissioner determines that all accrued liabilities (including, but not limited to, the principal sums thereof, accrued interest thereon, and court costs, if any, assessed to the licensee) of the licensee under this chapter have been satisfied in full.

The commissioner may at any time revoke a license, on any ground on which he might refuse to grant a license, for failure to pay an annual fee or for violation of any provision of this chapter, subject to the provisions of this chapter.

A license shall be automatically and finally revoked without any act or further act of the commissioner and without any right of the licensee to any hearing or further hearing by the commissioner or the courts and without any right of the licensee or the commissioner to reinstate or have reinstated the license, in the following instances: (a) at expiration of the sixty-day notice period, if the corporate surety gives notice of cancellation of its bond or any of them; (b) upon failure by licensee to pay when due the annual license fee required by Section 75-15-15 \* \* \*; (c) upon failure by licensee to file when due any information required by Section 75-15-19 \* \* \*; (d) in case of a revocation notice under the first paragraph of this section, failure by the licensee to demand hearing as provided therein or failure to deposit any additional corporate surety bond or securities deposit as required by the commissioner; (e) upon a license revocation order becoming final at any stage; (f) failure



by licensee to deposit when due any additional corporate surety bond or securities deposit required by the commissioner under Section 75-15-29 \* \* \*; or (g) upon final conviction of licensee as to any offense covered by Section 75-15-31 \* \* \*.

If a revocation order becomes final for any reason or in any manner, the license may not be reinstated, except upon new application as if the licensee had never been licensed before. The commissioner may deny the new application on grounds that a previous application was denied or a previous license to applicant was revoked or any ground or grounds on which he may deny an original application.

**SECTION 14.** Section 75-15-29, Mississippi Code of 1972, is amended as follows:

75-15-29. Any provision in this chapter to the contrary notwithstanding, the commissioner may at any time, if in his sole opinion the protection of the public so requires, increase the principal sum of the bond or the aggregate market value of the deposit required of any applicant or licensee by Section 75-15-11 but in no case shall the principal sum of the bond or the aggregate market value of the deposit required by Section 75-15-11 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided further, that in any situation, where a revocation order has been issued and the licensee involved has posted the additional bond required under Section 75-15-27, for suspension thereof, pending final determination, the commissioner may for the same reasons require the principal sum of the additional, suspension bond to be increased but in no case shall the principal sum thereof exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided further that if the licensee originally deposited with his application under Section 75-15-11 \* \* \* a corporate surety bond, the additional increase provided in this section must be by another corporate surety bond or an increase of the first one, written by the same corporate surety that wrote the first one and



may not be a deposit of securities or if the licensee originally deposited securities, the additional increase shall also be of securities and not a corporate surety bond.

**SECTION 15.** Section 75-15-31, Mississippi Code of 1972, is amended as follows:

75-15-31. (1) If any person to whom or which this chapter applies or any agent \* \* \* or representative of that person violates any of the provisions of this chapter or attempts to transact the business of conducting money transmissions as a service or for a fee or other consideration, without having first obtained a license from the commissioner under the provisions of this chapter, that person and each such agent \* \* \* or representative shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and may also be confined to the county jail \* \* \* for not more than twelve (12) months. Each violation shall constitute a separate offense.

(2) If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before beginning business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

(3) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee or employee is adjudged by the commissioner to be in violation of the provisions of this chapter. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) When the commissioner has reasonable cause to believe that a person is violating any provision of this chapter, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this chapter, may enter an order requiring the person to stop and refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

**SECTION 16.** (1) In addition to the bond required in Section 75-15-11, a licensee must possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate amount of all outstanding checks issued or sold or money received for transmission by the licensee in the United States. This requirement may be waived by the commissioner if the dollar volume of a licensee's outstanding checks does not exceed the bond or other security devices posted by the licensee in accordance with Section 75-15-11.

(2) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding checks and money received for transmission and may not be considered an asset or property of the licensee in the event of bankruptcy, receivership or a claim against the licensee unrelated to any of the licensee's obligations under this chapter.

(3) Permissible investments mean:

- (a) Cash;
- (b) Certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;

(c) Bills of exchange or time drafts drawn on and accepted by federally insured financial depository institutions;

(d) Any investment bearing a rating of one (1) of the three (3) highest grades as defined by a nationally recognized organization that rates such securities;

(e) Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality or any political subdivision thereof;

(f) Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of those securities or a fund composed of one or more permissible investments as set forth in this section;

(g) Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

(h) Receivables that are due to a licensee from its agents, which are not past due or doubtful of collection; or

(i) Any other investments approved by the commissioner.

(4) The commissioner may limit or disallow for purposes of determining compliance with this section an investment, surety bond, letter of credit or other security otherwise permitted by this section if the commissioner determines it to be unsatisfactory for investment purposes or to pose a significant supervisory concern.

**SECTION 17.** Each licensee shall comply with state and federal money laundering laws, including, but not limited to, the federal "Bank Secrecy Act," 12 USC Section 1951 et seq.



SECTION 18. This act shall take effect and be in force from and after July 1, 2010.

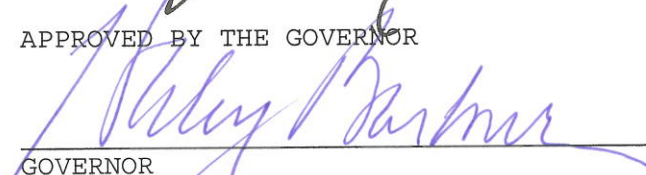
PASSED BY THE SENATE  
February 10, 2010

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 2, 2010

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR

3/29/10 3:17p